

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESAL PRICE	)	MDL No. 1456
LITIGATION	)	Civil Action No. 01-12257-PBS
_____	)	
	)	Subcategory No. 06-11337-PBS
THIS DOCUMENT RELATES TO:	)	
	)	Hon. Patti B. Saris
United States of America ex rel. Ven-A-	)	Magistrate Judge Marianne B. Bowler
Care of the Florida Keys, Inc., et al. v.	)	
Boehringer Ingelheim Corporation, et al.,	)	
Civil Action No. 07-10248-PBS	)	

**DECLARATION OF GEORGE B. HENDERSON, II SUBMITTING EXHIBITS  
IN OPPOSITION TO THE ROXANE DEFENDANTS'  
MOTION FOR A FINDING OF SPOILIATION AND FOR SANCTIONS**

I, George B. Henderson, II, an Assistant U.S. Attorney in the Office of the United States Attorney, District of Massachusetts and a member in good standing of the bar of this Court, do hereby declare as follows:

1. Exhibit 1 hereto is a true and correct copy of array documents of AdminaStar Federal (DMERC Region B) marked with Bates-stamp numbers AWP033-1474, AWP033-1352, and AWP033-1243. These documents were produced on or about April 13, 2007, to the Boehringer/Roxane defendants in a CD ROM marked "AWPCD001." (See cover letter at Exhibit 6 *infra*).

2. Exhibit 2 hereto is a true and correct copy of selected pages of Exhibit A to the Declaration of Carolyn Helton dated July 23, 2009, previously filed as Exhibit 3 to the Declaration of George B. Henderson, II Submitting Exhibits in Support of Motions

for Partial Summary Judgment (M.D. #6310-4, Sub. #308-4). These documents were produced on or about September 26, 2007 (imaged hard copies), and December 21, 2007 (native Excel files), to the Boehringer/Roxane defendants in CD ROMs marked "AWQ021" and "AWQ020 CD#1," respectively. (See cover letters at Exhibits 7 and 8, *infra*.)

3. Exhibit 3 hereto consists of copies of array documents of Palmetto GBA (DMERC Region C). These documents were produced in native Excel format on or about December 21, 2007, to the Boehringer/Roxane defendants in a CD ROM marked "AWQCD028." (See cover letter at Exhibit 8.) These copies are true and correct, except that the date in the lower left corner is not the original date in the original native Excel file but instead is the date when I converted the Excel file to pdf format. The electronic pathways to these documents are "nonPrivDATA\Item 1 Drug Files (Pricing information)\1999 Drug Files\K0000 7-1-99.zip"; "nonPrivDATA\Item 1 Drug Files (Pricing information)\1999 Drug Files\K0000 10-1-99.zip"; and "nonPrivDATA\Item 1 Drug Files (Pricing information)\2000 Drug Files\K0000 1-1-00rev.zip."

4. Exhibit 4 hereto are true and correct copies of array documents of Palmetto GBA (DMERC Region C) marked with Bates-stamp numbers AWQ037-0028 through AWQ037-0036. These documents were produced on or about January 31, 2008, to the Boehringer/Roxane defendants in a CD ROM marked "AWQ037." (See cover letter at Exhibit 9.)

5. Exhibit 5 hereto consists of true and correct copies of array documents of The Travelers Insurance Co./HealthNow, Inc. (DMERC Region A), marked with Bates-stamp numbers AWQ057-0034 and AWQ057-0156. These documents were produced on or about March 21, 2008, to the Boehringer/Roxane defendants in a CD ROM marked "AWQ057." (See cover letter at Exhibit 10.)

6. Exhibit 6 hereto is a true copy of a letter dated April 13, 2007, to counsel for the Roxane defendants producing documents that include those in Exhibit 1.

7. Exhibit 7 hereto is a true copy of a letter dated September 26, 2007, to counsel for the Roxane defendants producing documents that include some of those in Exhibit 3.

8. Exhibit 8 hereto is a true copy of a letter dated December 21, 2007, to counsel for the Roxane defendants producing documents that include some of those in Exhibit 2 and those in Exhibit 3.

9. Exhibit 9 hereto is a true copy of a letter dated January 31, 2008, to counsel for the Roxane defendants producing documents that include those in Exhibits 3 and 4.

10. Exhibit 10 hereto is a true copy of a letter dated March 21, 2008, to counsel for the Roxane defendants producing documents that include those in Exhibit 5.

11. Exhibit 11 is a true copy of selected pages from the March 13, 2008, deposition of Carolyn Helton.

12. Exhibit 12 is a true copy of the transcript of the hearing before this Court on November 13, 2008.

13. Exhibit 13 is a true copy of the Declaration of Mark G. Duggan, Ph.D., in Support of the United States' Motion for Partial Summary Judgment and in Opposition to Defendants' Motions for Partial Summary Judgment, except that the exhibits have been omitted. The entirety of this document was previously filed as Exhibit 41 to the Declaration of George B. Henderson, II Submitting Exhibits in Support of Motions for Partial Summary Judgment (M.D. #6310-4, Sub. #308-4).

I swear under the penalties of perjury that the foregoing statements are true and correct.

/s/ George B. Henderson, II  
George B. Henderson, II  
Assistant U.S. Attorney

Executed this 21st day of August, 2009